

Appl. No. 09/976,516
Amendment dated July 24, 2006
Reply to Office Action of May 26, 2006

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Remarks/Arguments

Claims 1-22 are pending and of these, claims 1-8, 11-18, 21 and 22 stand rejected on varying grounds under §102(e). Claims 9-10 are allowed and claims 19-20 are deemed to recite allowable subject matter.

Claim 1 has been canceled and claims 2-8 have been amended to depend from allowed claim 9 and otherwise resolve various informalities that result from the new dependency. Claim 11 has been amended to include the allowable features from claim 19 and claim 19 has been canceled. Claims 12 - 14 and 18 have been amended to resolve various informalities and claim 20 has been amended to depend from claim 11. Claims 21-22 have been rewritten in independent form.

In view of the comments below, Applicant respectfully requests that the Examiner withdraw the Finality of May 26, 2006 Office action, enter the proposed amendments, reconsider the present application including claims 2 - 8, 11 - 18, 20 - 21, and 22 and withdraw the respective rejection of or objection to these claims.

a) As an initial matter, Applicant submits that the Finality of the May 26, 2006 Office action is premature and respectfully requests that the Examiner reopen prosecution on the merits. More specifically, claims 21-22 were added in the March 6, 2006 Amendment and response. The Examiner has indicated in summary fashion that claims 21-22 are rejected. However, the Examiner has not provided any reasoning or rational or indication of how the cited reference (Ando et al) was applied to arrive at this rejection and thus Applicant is not able to evaluate the

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merits of the rejection. The May 26, 2006 Office action was considered to be a Final Office Action by the Examiner. Applicant respectfully submits that this is a premature Final since all pending claims have not been examined by the Examiner or, if so, the results of this consideration have not been communicated to the Applicant. Applicant's representative spoke briefly by Telephone with Examiner Parthasarathy on or about June 14, 2006 and it is believed that the Examiner agrees with the Applicant. Thus Applicant respectfully requests that the Finality of the May 26, 2006 Office action be withdrawn and that prosecution on the merits be reopened.

a) Claims 1-8, 11-18 and 21-22 stand rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al (U.S. Patent No. 6,895,432).

Re: Claims 1 - 8:

Claim 1 has been canceled and thus the rejection of this claim is moot. Claim 2-8 have been amended to depend from allowed claim 9 and thus, Applicant respectfully submits that claims 2 - 8 are presently allowable and thus requests that the Examiner reconsider and withdraw the rejection of claims 2-8 under 35 U.S.C. 102(e) as being anticipated by Ando et al (U.S. Patent No. 6,895,432).

Re: Claims 11 - 20:

Claim 11 has been amended to recite the features of previous claim 19 (which has been cancelled). As noted by the Examiner, original claim 19 (depending from claim 11) recited

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allowable subject matter and amended claim 11 includes all features of previous claim 11 and claim 19. Therefore, Applicant respectfully submits that amended claim 11 as well as claims depending there from, specifically dependent claims 12 – 18 and claim 20 as amended are in condition for allowance and thus requests that the Examiner reconsider and withdraw the rejection of claims 11-18 and 20 under 35 U.S.C. 102(e) as being anticipated by Ando et al (U.S. Patent No. 6,895,432).

Re: claims 21-22:

Claims 21 and 22 have been rewritten in independent form to include all limitations of the respective previous claim 21 and 22 and corresponding base claim 1 and 11. The Examiner as noted above did not provide any specific rational for rejecting claims 21-22 based on Ando et al.

Applicant has reviewed these claims in view of Ando et al as well as the Examiner's comments regarding various other claims and from this it seems clear that the features of claim 21 and 22 are not shown or suggested by Ando et al. and thus claims 21-22 should be allowable over this reference.

The Ando et al reference describes a technique for causing routers to discard unauthorized data packets (abstract, etc). Ando et al shows a victim host computer 30 (destination device) receives an unauthorized packet (col. 5, lines 40-44, quoted below).

“The unauthorized access packet having reached the border router 10 passes through an IP packet routing unit 100 within the border router 10, and is thereafter received by an IP packet forwarding /receiving unit 300 of the host computer (victim) 30 via the relay router20.”

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The victim host computer 30 (destination device) determines that the unauthorized packet may be harmful (col. 5, lines 45-59, quoted below).

"The unauthorized access packet is further transferred to an unauthorized intrusion monitoring unit 340 through an application protocol (which will hereinafter simply be referred to as an application) of a TCP/IP (Transmission Control Protocol over Internet Protocol) layer (Operation step OP1).

Next, the unauthorized intrusion monitoring unit 340 refers to threshold value data 350 and, if over a predetermined threshold value, notifies the IP packet forwarding/receiving unit 300 of unauthorized access occurrence data (which is search request data that will be explained in depth later on) indicating that the unauthorized access occurs. An administrator of the host computer 30 presets the threshold value data 350."

The victim host computer 30 (forwarding/receiving unit 300) then sends corresponding information (unauthorized access occurrence data – col. 5, lines 60-65, quoted below) to border router 10.

"The unauthorized access occurrence data transmitted from the IP packet forwarding/receiving unit 300 is inputted to a port 106 of the border router 10 via the relay router 20, and an unauthorized intrusion monitor 180 is notified of this item of unauthorized access occurrence data. Note that the unauthorized intrusion monitor 180 is notified of the unauthorized access occurrence data via precisely via the IP packet routing unit 100 from the port 106 (OP2)."

The router 10 registers or stores unauthorized access information based on the unauthorized access occurrence data received from the victim host computer 30 (destination device) (col. 6, lines 1-6, quoted below).

"The unauthorized intrusion monitor 180 registers an unauthorized access information table 150 with unauthorized access information based on the unauthorized

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access occurrence data received (OP3). Further, the unauthorized intrusion monitor 180 refers to border router information 152 and determines an information distributed destination (OP4)."

The router 10 also, responsive to receiving the unauthorized access occurrence data, notifies other routers RT1 40 in other systems AS00, AS01 of the unauthorized access information (col. 6, lines 7-12, quoted below).

"The order router 10 notifies other routers RT1, 40 in the self autonomous system AS00 and other autonomous system AS01 adjacent thereto. Of a content of the unauthorized access information table 150, and requests the routers RT1, 40 to register the same content in the unauthorized access information table in each order router (OP5)."

Thereafter in the event of a re-intrusion (another unauthorized packet), the packet is compared to unauthorized access information corresponding to the unauthorized access occurrence data from the victim host computer 30 and the packet is discarded when the packet and information are coincident (col. 6, lines 13 – 23, quoted below).

"Thereafter, if the illegal party host computer 60 in the autonomous system AS01 makes a re-intrusion, the unauthorized access packet enters the IP packet routing unit 100 via port 107 (OP6). The IP packet routing unit 100 refers to the unauthorized access information table 150, and compares its content with a content of the unauthorized access packet received (OP7).

As a result of the comparison, if these contents are coincident, the IP packet routing unit 100 discards the unauthorized access packet and shuts off the unauthorized access (OP8)."

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Claim 21 and claim 22 (in analogous form) affirmatively recite "interrupting transmission of the data packet in response to determining that the data packet is potentially harmful to the destination device, *the interrupting further comprising the step of communicating* (emphasis added) with a second router to cause the second router to interrupt transmission of a future data packet". While Ando et al shows communicating from one router to another pursuant to interrupting transmission of a future data packet; Ando et al does not show performing such communicating responsive to determining that the data packet is potentially harmful as specifically claimed. Rather Ando et al as noted above, performs such communicating responsive to a destination device (victim computer 30) providing information concerning unauthorized access.

Thus, Ando et al in view of the passages quoted above and passages cited by the Examiner or the balance of the reference clearly does not show or suggest all features (communicating with another router responsive to determining in the router ...) of claim 21 or claim 22 and hence, does not support a §102(e) rejection of these claims.

Even assuming *arguendo* that Ando et al could be construed to show the interrupting process further comprising communicating with a second router to cause the second router to interrupt transmission of a future data packet all as claimed, Ando et al clearly relies on information corresponding to that provided by the destination device (victim host computer 30) (see again the passages quoted above and specifically col. 5, lines 60-65).

Claim 21 and 22 further define the claimed determining in the router feature as determining in the router, without relying on information originated by the destination device, whether the data packet is potentially harmful to the destination device. As noted above (quoted

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passages page 13-14) in the analysis of Ando et al. any determination in a router is performed based on information provided by the destination device (victim host computer 30). Thus, claims 21-22 clearly recite a feature that is not shown or suggested by Ando et al. and therefore in view of this additional reason are clearly allowable.

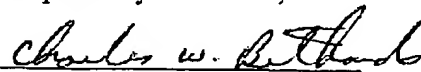
Therefore and in view of at least one or more of these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 21-22 under 35 U.S.C. 102(e) as being anticipated by Ando (U.S. Patent No. 6,895,432).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable other than the extra claims fee separately considered given that this Amendment and Response is being timely filed with the 3 months allotted, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-3435.

Encls.
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Respectfully submitted,


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